

ENTERED

May 17, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

KELLEY CONSTRUCTION, INC.,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:16-CV-154
	§	
AMERICAN TANK COMPANY, INC., <i>et</i>	§	
<i>al</i> ,	§	
	§	
Defendants.	§	

ORDER

Be it remembered that on May 16, 2017 the Court **GRANTED** Defense Counsel's Motion for Leave of Court to Withdraw and Request for Expedited Consideration, Dkt. No. 41.

"An attorney may withdraw from representation only upon leave of the court and a showing of good cause and reasonable notice to the client." *Matter of Wynn*, 889 F.2d 644, 646 (5th Cir. 1989). The withdrawing attorney bears the burden of proving the existence of good cause for withdrawal. *See Federal Trade Commission v. Intellipay*, 828 F. Supp. 33, 34 (S.D. Tex. 1993) ("The record must generally reflect an appropriate basis for granting leave [to withdraw]; unsubstantiated claims are insufficient."). Whether leave is granted is a matter within the trial court's sound discretion. *Wynn*, 889 F.2d at 646.

R. Clay Hoblit and Rebecca M. Rábago of Hoblit Darling Ralls Hernandez & Hudlow, LLP, and Michael C. Whitticar, Esq. of NOVA IP Law, PLLC ("Defense Counsel") seek leave to withdraw from their representation of Defendants American Tank Company, Inc. and Larry Romero (collectively, "Defendants"). Plaintiff Kelly Construction, Inc. ("Plaintiff") is unopposed to this motion. Dkt. No. 41 at 3. Defense Counsel states that since December of 2016, Defendants have "refused to authorize several recommended actions" proffered by Defense Counsel, and "have not authorized any significant and/ or necessary work be completed in the future." Dkt.

No. 42 at 2. This case is set for a final pretrial conference on August 24, 2017. Defense Counsel states that without Defendants' cooperation, they "cannot effectively represent Defendants and cannot effectively prepare this case for trial." *Id.* Defense Counsel also states that its continued representation of Defendants would "result in an unreasonable financial burden on Defense Counsel." *Id.* at 3.

Defense Counsel states that it has "briefed [Defendants] on the basis for withdrawal and the reasons are accepted and understood." Dkt. No. 41 at 1-2. Defense Counsel also states that it has sent a copy of its motion to withdraw to Defendants by certified mail at their last known addresses. Dkt. No. 42 at 3. Defense Counsel states it has sent a copy of all scheduling orders and deadlines to Defendants and warned Defendants "that if they fail to timely retain replacement counsel by the deadline or respond to the deadlines set by the Court," a default judgment in this case may be entered against them. *Id.* Defense Counsel avers that it seeks expedited consideration of its motion to withdraw to allow Defendants ample opportunity to find replacement counsel in the three months remaining before the scheduled final pretrial conference. *Id.*

The Court finds that Defense Counsel has demonstrated good cause to withdraw from its representation of Defendants, and has given Defendants reasonable notice of their withdrawal. For this reason, the Court **GRANTS** Defense Counsel's Motion for Leave of Court to Withdraw and Request for Expedited Consideration, Dkt. No. 41.

The Court additionally advises Defendants that because corporations do not enjoy the right to represent themselves in federal court, they must instead be represented by licensed counsel. *Rowland v. Men's Colony*, 506 U.S. 194, 201-02 (1993). For this reason, Defendants must designate new counsel and cause a notice of appearance to be filed, or else risk the possibility that this Court will strike their pleadings, and ultimately, enter default judgment against them. Accordingly, the Court **ORDERS** Defendants to advise the Court of how they intend to proceed in this action, by May 26, 2017.

Finally, the Court **DIRECTS** the Clerk to send a copy of this order by certified mail to Defendants at their last known addresses:

- **American Tank Company, Inc.:** 301 N.W. Bypass Hwy, New Iberia, LA 70560 AND 2804 W. Admiral Doyle Drive, New Iberia, Louisiana 70560.
- **Larry J. Romero:** P.O. Box 9765, New Iberia, LA 70562-9765 AND 2200 XXXX Street New Iberia, LA 70560.

It is so ORDERED.

SIGNED this 16th day of May, 2017.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge